

## § 223.44

### § 223.44 Collection rights on contracts involved in transfer of purchaser credit.

To assure protection of the United States in connection with the implementation of this regulation, contract provisions shall not prevent the Forest Service from carrying out collection rights, authorized by the Federal Claims Collection Act of 1966 (80 Stat. 309), between contracts involved in the transfer of purchaser credit. Such claims against the contract receiving the transferred purchaser credit shall be limited to the amount transferred.

(Pub. L. 94-154, 89 Stat. 823 (16 U.S.C. 535))

[42 FR 63777, Dec. 20, 1977. Redesignated at 49 FR 2761, Jan. 23, 1984]

### § 223.45 Definitions applicable to transfer of purchaser credit.

As used in §§ 223.42 and 223.43, the term *Purchaser* includes any single individual, corporation, company, firm, partnership, joint venture, or other business entity or the successor in interest of any of the foregoing business entities having timber sale contracts on the same National Forest. The term *National Forest* shall be considered as a unit of the National Forest System, regardless of how it was established, which maintains a separate identity with respect to the distribution of receipts earned thereon to the States and counties. The term *Effective Purchaser Credit* means unused purchaser credit which does not exceed current contract value minus base rate value. The term *base rate value* is the sum of the products of base rates and estimated remaining unscaled (unreported on tree measurement contracts) volumes by species of timber included in a timber sale contract.

(Pub. L. 94-154, 89 Stat. 823 (16 U.S.C. 535))

[42 FR 63777, Dec. 20, 1977. Redesignated at 49 FR 2761, Jan. 23, 1984]

### § 223.46 Adjustment of contract termination date.

Timber sale contracts may provide for adjustment of the termination date to provide additional time to compensate for delays in road construction and timber removal due to those causes beyond the purchaser's control, which may include but are not limited to acts

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of God, acts of the public enemy, acts of the Government, labor disputes, fires, insurrections or floods.

### § 223.47 Date of completion of permanent road construction.

(a) The date of completion of permanent road construction obligations as set forth in the Notice of Sale shall be incorporated into the timber sale contract.

(b) This date is applicable to construction by both the Forest Service and the timber purchaser.

(c) The date is not applicable to roads not needed by the purchaser for timber removal.

(d) The date for completion may be revised, if additional time is needed, under guidelines provided by the Chief, Forest Service, including but not limited to (1) default of contractors or (2) design changes, physical changes, or catastrophic damages which necessitate modification of specified road construction work.

(e) If Forest Service failure to perform results in delay in road completion, the termination date shall be adjusted in accordance with the contract term adjustment provisions of the timber sale contract. If there is substantial delay in performance by the Forest Service, the contract shall provide that rates of payment may be redetermined, at the request of the purchaser, in accordance with guidelines established by the Chief, Forest Service.

(f) If the purchaser retains responsibility for road construction, the date of completion for permanent roads may be modified to conform to the approved plan of operation.

### § 223.48 Restrictions on export and substitution of unprocessed timber.

(a) Contracts for the sale of unprocessed timber from National Forest System lands located west of the 100th meridian in the contiguous 48 States and Alaska, awarded before August 20, 1990, shall include provisions implementing the Secretary's timber export and substitution regulations at subpart D of this part in effect prior to that date. Such contracts shall also require purchasers to: